

STATE OF NEW MEXICO  
COUNTY OF CHAVES  
FIFTH JUDICIAL DISTRICT  
NO: D-504-CV-2014-00513

RACHEL SMITH, as next  
friend and Mother of  
SEBASTION TOWLER, ETHAN  
TOWLER, and JESSE  
TOWLER, and CHARLIE  
NELMS, as next friend  
and Mother of NOAH  
TOWLER-NELMS and  
SCHERRIE TOWLER,  
individually, and as  
Personal Representative  
of the Estate of CODY  
TOWLER, Deceased,

Plaintiffs,

-vs-

CITY OF ROSWELL, A NEW  
MEXICO MUNICIPALITY,  
PHILLIP SMITH, JONATHON  
KELTON, JORGE  
ARROYO-JAIME, AND DYLAN  
THOMAS, INDIVIDUALLY AND  
AS AGENTS AND EMPLOYEES  
OF THE CITY OF ROSWELL,

Defendants.

DEPOSITION OF JORGE ARROYO-JAIME

SEPTEMBER 18, 2015

8:30 A.M.

400 North Pennsylvania

ROSWELL, NEW MEXICO

PURSUANT TO THE NEW MEXICO RULES OF CIVIL  
PROCEDURE, this deposition was:

TAKEN BY: JOEL T. NEWTON, ESQ.

ATTORNEY FOR PLAINTIFFS

REPORTED BY: LORENA H. ROMERO

CCR #184

Romero Reporting, Inc.

512 N. Lea

Roswell, New Mexico 88201

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575-625-1710

- 1           A.     Correct.
- 2           Q.     All right. How close were you when you  
3   deployed your Taser?
- 4           A.     Same, about 10, 15 feet.
- 5           Q.     All right. But you were able to see his  
6   face, correct?
- 7           A.     Somewhat. The side of his face.
- 8           Q.     You were facing him, correct?
- 9                     MR. SHANOR: Object to form.
- 10          A.     In the front? I was in front.
- 11          Q.     You were in front of him, correct?
- 12          A.     Correct.
- 13          Q.     So as you walked up, you did not go around  
14   behind him, correct?
- 15          A.     Correct.
- 16          Q.     And then when you got close enough and you  
17   waited 30 seconds to a minute, what did you do?
- 18          A.     I deployed my department-issue Taser.
- 19          Q.     Why did you deploy your Taser?
- 20          A.     Based on what was happening, Officer --  
21   clearly see that Officer Thomas' Taser was not  
22   working well, not working, not having an effect on  
23   Mr. Towler.
- 24          Q.     Now you waited 30 seconds to a minute?
- 25          A.     Correct.

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1 anything that you knew, correct?

2 A. Correct.

3 MR. SHANOR: Same objection.

4 Q. Thank you. All right. Now you've cuffed  
5 him up. What happens next?

6 A. We are able to handcuff his arms. He's  
7 still moving, still fighting. He's still moving to  
8 his -- from side to side. So I move in his legs so  
9 I made the decision to get on his legs, hold him  
10 down. My hands are almost to his buttocks holding  
11 him down. And when I'm on there, I feel his -- his  
12 feet kicking my back. So he's obviously moving his  
13 legs. Officer McKinnon is there. I asked him to  
14 retrieve some leg shackles and he does. Leg  
15 shackles were placed on his legs or his feet. And  
16 soon after that, he calmed down, he came down.

17 Q. Okay. All right. Several of the other  
18 officers say after that he was laying alone for a  
19 minute or so, do you recall that?

20 MR. SHANOR: Object to form.

21 A. I do.

22 Q. All right. So as that relates to him  
23 laying alone, what do you recall?

24 A. Well, let me back up a little bit. His  
25 leg shackles were on him.

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1 Q. Well, you got on his buttocks, Kelton was  
2 really basically on his back and you guys were  
3 holding him down, correct?

4 A. Yeah.

5 Q. And he was resisting. How long did you  
6 stay there before you believed we've got him in  
7 custody?

8 A. Once the shackles went on, like I said, he  
9 immediately came down and that's when I got off.

10 Q. Okay. Once the shackles -- are you  
11 talking the leg shackles or the arms?

12 A. Shackles, the legs.

13 Q. All right. Now I'm going to have you go  
14 to another exhibit here just to show you some so we  
15 can kind of identify. Go to Exhibit 5, if you will.

16 A. Okay.

17 Q. I've written some numbers beside the  
18 entries there, this event log. Do you see Entry  
19 No. 13, five Taser deployments and several baton  
20 strikes, subject 10-15?

21 A. Yes.

22 Q. That's at 2:12:37, right?

23 A. Yes.

24 Q. That's 2:00 a.m. and 12 minutes and 37  
25 seconds after 2:00 a.m., correct?

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